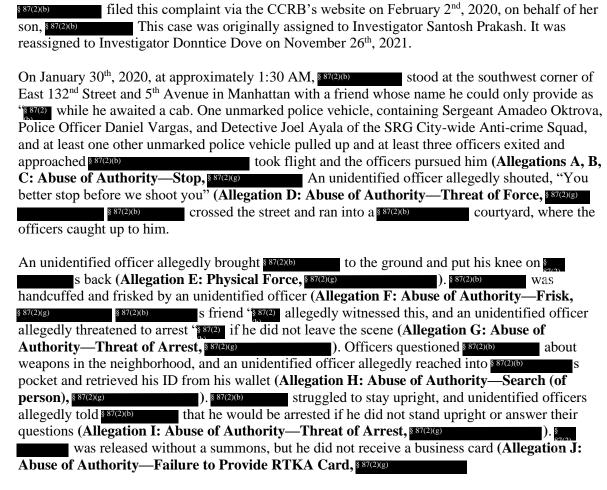
CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	V	Force		Discourt.	U.S	.
Teecie Dove		Squad #2	202000911		Abuse	П	O.L.	— ☐ Inju	ırv
20000 2000			202000911		110 400		0.2.)
Incident Date(s)		Location of Incident:		F	Precinct:	18	Mo. SOL	EO S	OL
Thursday, 01/30/2020 1:30 AM		5th Avenue and East 13	32nd Street		25	7,	/30/2021	3/16/2	2022
Date/Time CV Reported		CV Reported At:	How CV Reported:		Date/Time	Rece	eived at CCI	RB	
Sun, 02/02/2020 6:58 PM		CCRB	On-line website		Sun, 02/02	2/2020	0 6:58 PM		
Complainant/Victim	Type	Home Addre	ess						
Subject Officer(s)	Shield	TaxID	Command						
1. Officers									
2. DT3 Joel Ayala	02912	954509	GVSD Z2						
3. PO Daniel Vargas	04865	957244	GVSD Z2						
4. SGT Amadeo Oktrova	00000	949413	PBBX SU						
5. An officer									
Witness Officer(s)	Shield N	o Tax No	Cmd Name						
1. DT3 Joseph Spina	06037	953436	WARRSEC						
2. LT CD Michael Raso	00000	933235	FSS						
3. DT3 Steven Cruver	02950	950250	WARRSEC						
4. DT3 Sean Kern	03332	955000	GVSD Z2						
5. DT3 Ryan Stigell	01218	951302	WARRSEC						
Officer(s)	Allegatio)n			Inve	stiga	ator Recon	ımendat	ion
A.SGT Amadeo Oktrova	Abuse: S	ergeant Amadeo Oktrov	a stopped § 87(2)(b)						
B.PO Daniel Vargas	Abuse: P	olice Officer Daniel Var	rgas stopped § 87(2)(b)						
C.DT3 Joel Ayala	Abuse: D	Detective Joel Ayala stop	pped § 87(2)(b)						
D. An officer	Abuse: A force.	an officer threatened § 87(2	with the	use	of				
E. Officers	Force: O	fficers used physical for	ce against § 87(2)(b)						
F.SGT Amadeo Oktrova	Abuse: S	ergeant Amadeo Oktrov	a frisked § 87(2)(b)						
G. An officer	Abuse: A	an officer threatened to a	arrest an individual.						
H. An officer	Abuse: A	n officer searched § 87(2)(1	b)						
I. Officers	Abuse: C	Officers threatened to arre	est § 87(2)(b)						
J.SGT Amadeo Oktrova	Abuse: S	ergeant Amadeo Oktrov with a business card.	a failed to provide	87(2)					

Case Summary

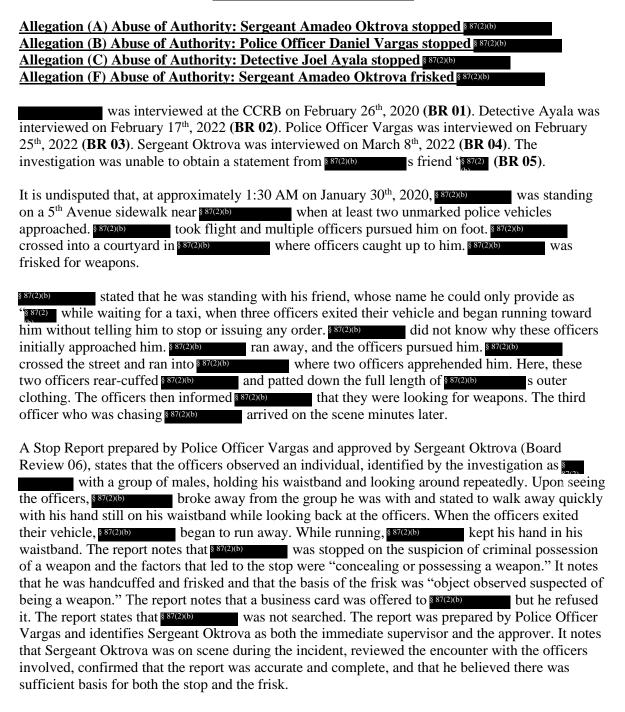


No video evidence was received for this incident. An initial request for BWC footage based on the incident date, location, and time, was returned by NYPD Legal with negative results (**Board Review 17**). Once the possible command of the subject officers was determined to be the SRG City-wide Anti-crime Unit, 2 subsequent BWC requests were submitted for all officers listed on the command's roll calls for January 29, 2020, and January 30, 2020, both of which also returned negative results (**BR 18 and 19**). Once the Stop Report (**BR 06**), which provided the specific serial number of the BWC that Police Officer Vargas shot video of this incident on, a fourth BWC request with this information was submitted to NYPD Legal. At this point a response was received stating that the relevant video footage was no longer available due to Axon's Retention Policy (**BR 20**).

In addition to difficulties in obtaining BWC footage, the investigation experienced delays in identifying the subject officers due to the unusual nature of their assignment. An examination of documents from PSA 5, PBMN Anti-crime, and the 25th Precinct initially determined that the subject officers could not be identified (**BR 35**). Upon the case's reassignment in November of 2021, a further examination of the evidence was conducted, and it was concluded that the subject officers were potentially of the SRG City-wide Anti-crime unit. Sergeant Oktrova, Detective Ayala, and Police Officer Vargas, along with five other officers, were identified as potential subject officers upon receipt of the SRG City-wide Anti-crime Roll Call on December 27, 2021 (**BR 22**). These officers were confirmed to be subject officers based on Detective Ayala's and Police Officer Vargas' memo books (**BR 23**), as well as the Stop Report (**BR 06**) prepared by Police Officer

Vargas confirming Sergeant Oktrova's involvement, received on January 13th, 2022. After multiple attempts to schedule the subject officers for interviews during a two-month period between January 18th, 2022, and March 08th, 2022, during which Sergeant Oktrova, Detective Ayala, and Police Officer Vargas each had three missed interview appointments (**BR 28, 29, 30, 31, 32, 33, and 34**), the last subject officer was interviewed on March 8th, 2022 (**BR 04**), nine days prior to the statute of limitations date for this case. Given these delays in identifying and interviewing the subject officers, the investigation was unable to conclude prior to the statute of limitations expiring.

Findings and Recommendations



Ayala conducted a search for (ST/2)(6) at 1:59 a.m. on the incident date (**BR 21**).

The testimonies of Detective Ayala, Police Officer Vargas, and Sergeant Oktrova were largely consistent. All three officers stated that they were on routine patrol on the night of the incident when they first noticed (ST/2)(6) standing on the sidewalk amongst a group of men.

A Warrant Audit of all searches conducted by officers for \$87(2)(b) revealed that Detective

was clutching his waistband and looking around, and when he saw the officers, he took flight. These factors combined with what the officers knew about the area—that it was a high-crime area with multiple recent shootings—alerted the officers to the possibility that savent could have had a weapon. None of the officers recalled whether they saw an object in savent s

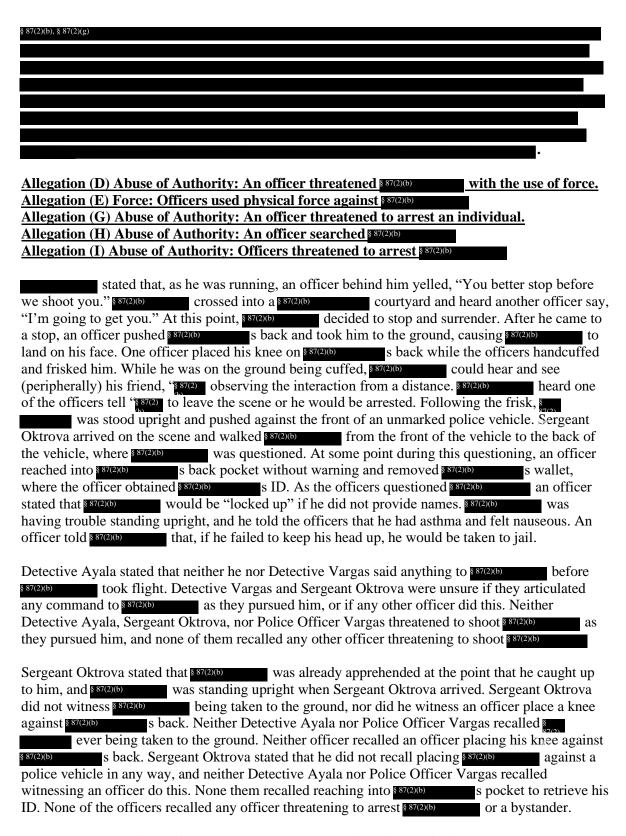
Sergeant Oktrova stated that he was in a vehicle with Detective Ayala and Police Officer Vargas, and that another unmarked police vehicle from the same unit was behind them. Sergeant Oktrova did not recall which officers were in the second vehicle. Sergeant Oktrova pursued (S87(2)(b)) on foot, along with the officers in the other vehicle. Police Officer Vargas was unsure whether he pursued (S87(2)(b)) on foot. Detective Ayala stated that he remained in the vehicle and drove to catch up with (S87(2)(b))

Sergeant Oktrova trailed behind the officers who pursued and did not catch up with them for one-to-two minutes. During this time, Sergeant Oktrova conducted an evidence sweep, where he searched the surrounding area for weapons in case strong discarded a weapon on his run. This evidence sweep yielded no results. Sergeant Oktrova did not recall whether he was present when strong was frisked and he did not recall if strong was already handcuffed when he caught up to he and the other officers. Neither Detective Ayala nor Police Officer Vargas recalled whether strong was handcuffed, nor which officer handcuffed him. Neither officer recalled which officer frisked strong did not possess a weapon.

While, as described above, the Stop Report identified the basis of the frisk as, "object observed suspected of being a weapon." None of the three officers recalled seeing any such object, and none of them was able to provide a description of said object.

Per People v. De Bour, 40 NY2d 210 [1976] (BR 07), to initiate a stop officers must possess reasonable suspicion that the individual has committed a crime. This reasonable suspicion must include "specific," "concrete," and "articulable" observations made by said officer. Without these factors, an officer possesses founded suspicion at best and cannot restrict an individual's movements. In order to frisk an individual, officers must have a reasonable suspicion that the individual is armed. In People v. Clermont, 133 A.D.3d 612 [2015] (BR 08), the court established that a suspect's flight, even when combined with an officer's knowledge of criminality in the area, is not enough to elevate a Level 2 inquiry to a Level 3 stop, and therefore does not justify the officer's pursuit of the suspect. However, a suspect's flight combined with specific factors that indicate said suspect's criminality may rise to the level of reasonable suspicion. These factors must be articulable and directly relevant to the suspect. A suspect clutching or adjusting their waistband is not a sufficient factor to determine reasonable suspicion.

<u>People v. Prochilo</u>, 41 NY2d 759 [1977] (**BR 09**) states that, to justify a frisk, an officer must be able to effectively articulate "proof of a describable object or of describable conduct which provided a reasonable belief that an individual possessed a gun..." This "describable conduct" cannot consist solely of a suspect's innocuous behavior that could have an innocent explanation, such as an individual clutching their waistband. People v. White,159 AD3d 741 [2018] (**BR 10**).



The Memo Books of all officers who were on the SRG City-wide Anti-crime Roll Calls on January 29, 2020, and January 30, 2020 (**BR 22**) were requested (**BR 23, 24, 25, 26, and 27**). Of these

officers, only Police Officer Vargas and Detective Ayala had entries matching this incident (Sergeant Oktrova stated that he had lost his memo book in the interim and filed a UF61 Report in regard to the lost memo book).

Sergeant Oktrova, Police Officer Vargas, and Detective Ayala, who were together in one vehicle, were the only officers identified via the relevant NYPD documents in connection with this incident and none of them could identify the other officers who were present for this incident. The

and none of them could identify the other officers who were present for this incident. The
§ 87(2)(b), § 87(2)(g)
Allegation (J) Abuse of Authority: Sergeant Amadeo Oktrova failed to provide \$87(2)(b)
with a business card.
It is undisputed that officers did not provide \$87(2)(b) with a business card. Sergeant Oktrova and Police Officer Vargas stated that they offered \$87(2)(b) a business card, but that he refused. This is documented in the stop report (BR 06), where it states that a business card was offered, but
"no business card [was] given due to refusal."
§ 87(2)(b), § 87(2)(g)
Civilian & CCRB History
• This is the first CCRB complaint to which \$87(2)(b) has been a party (BR 12).
● § 87(2)(b)
• Police Officer Vargas has been a member-of-service for 7 years and has been a subject in five
other CCRB complaints and nine other allegations, none of which were substantiated. §87(2)(9)
• Sergeant Oktrova has been a member-of-service for 11 years and has been a subject in 12 other CCRB complaints and 28 other allegations, none of which were substantiated. [87(2)(g)]

- Detective Ayala has been a member of service for 8 years and has been a subject in 12 other CCRB complaints and 43 other allegations, of which seven were substantiated in two cases:
 - In case # 201605007 a stop allegation was substantiated against Detective Ayala. The Board recommended formalized training and the NYPD imposed formalized training.
 - In case # 201607995 three vehicle stop allegations and three vehicle search allegations were substantiated against Detective Ayala. The Board recommended formalized training and the NYPD imposed no penalty.

Mediation, Civil, and Criminal Histories

- \$87(2)(b) declined to resolve this complaint via mediation.
- As of December 10th, 2021, the New York City Office of the Comptroller has no record of a Notice of Claim being filed regarding this incident (BR 14).
- According to the Office of Court Administration, has not been convicted of any crimes in New York City (BR 15).

	o the Office of Court Ad ew York City (BR 16)	ministration, § 87(2)(b)	has not been convicted of any
Squad No.:	02		
Da	wtr Dan		
Investigator:		Donntice Dove	03/16/2022
_	Signature	Print Title & Name	Date
Squad Leader: A	Alexander Opoku-Agyem Signature	nang IM Alexander Opok Print Title & Nam	